



General Assembly

Substitute Bill No. 6619

January Session, 2005

* HB06619INS__032405__ *

AN ACT CONCERNING DISCOUNT HEALTH PLANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2005*) (a) As used in this section
2 and section 2 of this act:

3 (1) "Affiliate" means a person that directly or indirectly through one
4 or more intermediaries, controls, or is controlled by, or is under
5 common control with, a health insurer, health care center, hospital
6 service corporation, medical service corporation or fraternal benefit
7 society licensed in this state;

8 (2) "Consumer" means: (A) A person to whom a discount health
9 plan is marketed or advertised, or (B) a member, as defined in this
10 subsection;

11 (3) "Discount health plan" means a business arrangement or contract
12 in which a person, in exchange for payment, provides access for its
13 members to providers of health care services and the right to receive
14 health care services from those providers at a purported discount.
15 "Discount health plan" does not include a product that is otherwise
16 subject to regulation or approval under title 38a of the general statutes;

17 (4) "Discount health plan organization" means a person that offers,
18 in return for a payment of any kind, a discount health plan to residents

19 of this state. "Discount health plan organization" does not include a
20 health insurer, health care center, hospital service corporation, medical
21 service corporation or fraternal benefit society licensed in this state or
22 any affiliate of such health insurer, health care center, hospital service
23 corporation, medical service corporation or fraternal benefit society;

24 (5) "Health care services" means any care, service or treatment of an
25 illness or dysfunction of, or injury to, the human body. "Health care
26 services" includes physician care, inpatient care, hospital surgical
27 services, emergency medical services, ambulance services, dental care
28 services, vision care services, mental health services, substance abuse
29 services, chiropractic services, podiatric services, laboratory test
30 services and the provision of medical equipment or supplies. "Health
31 care services" does not include pharmaceutical supplies or
32 prescriptions;

33 (6) "Member" means an individual who pays for the right to receive
34 the purported benefits of a discount health plan; and

35 (7) "Person" means a person, as defined in section 38a-1 of the
36 general statutes.

37 (b) No person may market, advertise or sell to a resident of this state
38 a discount health plan or any plan material that: (1) Fails to provide to
39 the consumer a clear and conspicuous disclosure that the discount
40 health plan is not insurance and that the plan only provides for
41 discounted health care services from participating providers within the
42 plan; (2) uses in its advertisements, marketing materials, brochures or
43 discount cards the term "insurance", "health plan", "coverage", "copay",
44 "copayments", "preexisting conditions", "guaranteed issue",
45 "premium", "enrollment", "PPO", "preferred provider organization" or
46 any other term that could reasonably mislead a person into believing
47 the discount health plan is insurance; (3) fails to provide the name,
48 address and telephone number of the administrator of the discount
49 health plan; (4) fails to make available to the consumer through a toll-
50 free telephone number, upon request of the consumer, a complete and

51 accurate list of the participating providers within the plan in the
52 consumer's local area and a list of the services for which the discounts
53 are applicable; (5) fails to make a printed copy of such list available to
54 the consumer upon request commencing with the time the plan is
55 purchased or fails to update the list at least once every six months; (6)
56 fails to use plain language to describe the discounts or access to
57 discounts offered and such failure results in representations of the
58 discounts that are misleading, deceptive or fraudulent; (7) fails to
59 provide the consumer notice of the right to cancel such discount health
60 plan; (8) offers discounted health services or products that are not
61 authorized by a contract with each provider listed in conjunction with
62 the discount health plan; (9) fails to allow a consumer to cancel a
63 health discount plan not later than thirty days after purchase; or (10)
64 fails to guarantee a refund of all membership fees paid to the discount
65 health plan by the consumer not later than thirty days after timely
66 notification of cancellation of the plan is given to the discount health
67 plan organization.

68 (c) Any person who operates as or aids and abets another operating
69 as a discount health plan organization in violation of this section shall
70 be fined not more than twenty thousand dollars.

71 (d) Any person who collects fees for purported membership in a
72 discount health plan but fails to provide the promised benefits shall be
73 subject to the penalties for larceny under sections 53a-122 to 53a-125b,
74 inclusive, of the general statutes, depending on the amount involved.

75 Sec. 2. (NEW) (*Effective July 1, 2005*) (a) Before doing business in this
76 state as a discount health plan organization, an entity shall:

77 (1) Be a corporation, incorporated under the laws of this state or, if a
78 foreign corporation, authorized to transact business in this state; and

79 (2) Obtain a license as a discount health plan organization from the
80 Insurance Commissioner in accordance with this section. The entity
81 shall file an application for a license to operate as a discount health
82 plan organization with the commissioner on such form as the

83 commissioner prescribes. Such application shall be sworn to by an
84 officer or authorized representative of the applicant, under penalty of
85 false statement, and be accompanied by (A) a copy of the applicant's
86 articles of incorporation, including all amendments; (B) a copy of the
87 applicant's bylaws; (C) a list of the names, addresses, official positions
88 and biographical information of the discount health plan organization
89 and the individuals who are responsible for conducting the applicant's
90 affairs, including, but not limited to, all members of the board of
91 directors, board of trustees, executive committee, or other governing
92 board or committee, the officers, contracted management company
93 personnel, and any person or entity owning or having the right to
94 acquire ten per cent or more of the voting securities of the applicant,
95 which listing shall fully disclose the extent and nature of any contracts
96 or arrangements between any individual who is responsible for
97 conducting the applicant's affairs, including any possible conflicts of
98 interest; (D) for each individual listed in subparagraph (C) of this
99 subdivision as being responsible for conducting the applicant's affairs,
100 a complete biographical statement, on forms prescribed by the
101 commissioner, an independent investigation report containing
102 information prescribed by the commissioner, and a complete set of
103 fingerprints; (E) a statement generally describing the applicant, its
104 personnel and the health services or other services to be offered; (F) a
105 copy of the form of all contracts made or to be made between the
106 applicant and any providers or provider networks regarding the
107 provision of health services to members; (G) a copy of the form of any
108 contract made or to be made between the applicant and any person
109 listed in subparagraph (C) of this subdivision; (H) a copy of the form
110 of any contract made or to be made between the applicant and any
111 person, corporation, partnership or other entity for the performance on
112 the applicant's behalf of any function, including, but not limited to,
113 marketing, administration, enrollment, investment management and
114 subcontracting for the provision of health services to members; (I) a
115 copy of the applicant's most recent financial statements audited by an
116 independent certified public accountant; (J) a description of the
117 proposed method of marketing; (K) a description of the subscriber

118 complaint procedures to be established and maintained; (L) the fee for
119 a discount health plan organization license set forth in section 38a-11
120 of the general statutes, as amended by this act; and (M) such other
121 information as the commissioner may require to make the
122 determinations required by this section. For purposes of this
123 subdivision, a "contract to be made" shall be determined based on the
124 information known to the applicant on the date the information is filed
125 with the commissioner.

126 (b) If the commissioner finds that the applicant is in compliance
127 with the requirements of this section the commissioner shall issue the
128 applicant a license as a discount health plan organization which shall
129 expire one year after the date of issue. The commissioner shall renew
130 the license if the commissioner finds that the licensee is in compliance
131 with the requirements of this section and the licensee has paid the
132 renewal fee set forth in section 38a-11 of the general statutes, as
133 amended by this act.

134 (c) Prior to applying for a license from the commissioner, a discount
135 health plan organization shall establish an Internet website that
136 contains the information described in subsection (t) of this section.

137 (d) Any license or renewal fee received pursuant to this section shall
138 be deposited in the Insurance Fund established in section 38a-52a of
139 the general statutes.

140 (e) Nothing in this section shall require a provider who provides
141 discounts to the provider's own patients to obtain or maintain a license
142 as a discount health plan organization.

143 (f) Each provider who offers health services to members under a
144 discount health plan shall provide such services pursuant to a written
145 agreement. The agreement may be entered into directly by the
146 provider or by a provider network to which the provider belongs.

147 (g) A provider agreement shall include: (1) A list of the services and
148 products to be provided at a discount; (2) the amount of the discounts

149 or, alternatively, a fee schedule that reflects the provider's discounted
150 rates; and (3) a requirement that the provider will not charge members
151 more than the discounted rates.

152 (h) A provider agreement between a discount health plan
153 organization and a provider network shall require that the provider
154 network have written agreements with its providers that: (1) Contain
155 the terms set forth in subsection (g) of this section; (2) authorize the
156 provider network to contract with the discount health plan
157 organization on behalf of the provider; and (3) require the network to
158 maintain an up-to-date list of its contracted providers and to provide
159 that list on a monthly basis to the discount health plan organization.
160 No discount health plan organization may enter into or renew a
161 contractual relationship with a provider network that is not licensed in
162 accordance with section 38a-479aa of the general statutes.

163 (i) The discount health plan organization shall maintain a copy of
164 each active provider agreement.

165 (j) Each discount health plan organization shall file an annual report
166 with the commissioner not later than three months after the end of the
167 fiscal year. Such annual report shall be filed on such forms as the
168 commissioner prescribes and shall include: (1) Audited financial
169 statements prepared in accordance with generally accepted accounting
170 principles certified by an independent certified public accountant,
171 including the organization's balance sheet, income statement and a
172 statement of changes in cash flow for the preceding year; (2) a list of
173 the names and residence addresses of all persons responsible for the
174 conduct of the organization's affairs and a disclosure of the extent and
175 nature of any contracts or arrangements between such persons and the
176 discount health plan organization, including any possible conflicts of
177 interest; (3) the number of members served by the discount health plan
178 organization; and (4) such other information relating to the
179 performance of the discount health plan organization as is required by
180 the commissioner.

181 (k) The commissioner may assess a discount health plan
182 organization that fails to file an annual report in accordance with this
183 section a fine of not more than one thousand dollars for each day of
184 violation for the first ten days of violation and not more than two
185 thousand dollars for each day thereafter, and the commissioner may
186 suspend the organization's authority to enroll new members or to do
187 business in this state while such default continues. The commissioner
188 shall deposit all moneys collected under this subsection in the
189 Insurance Fund established in section 38a-52a of the general statutes.
190 The commissioner may not collect more than one hundred thousand
191 dollars for any one annual report.

192 (l) Each discount health plan organization shall at all times maintain
193 a net worth of at least two hundred fifty thousand dollars.

194 (m) The commissioner may not issue or renew a license under this
195 section unless the discount health plan organization has a net worth of
196 at least two hundred fifty thousand dollars.

197 (n) The commissioner may suspend the authority of a discount
198 health plan organization to enroll new members, revoke any license
199 issued to a discount health plan organization, refuse to renew a license
200 of a discount health plan organization or order compliance if the
201 commissioner finds that any of the following conditions exist:

202 (1) The organization is not operating in compliance with this section
203 or section 1 of this act;

204 (2) The organization does not have the minimum net worth required
205 by this section;

206 (3) The organization has advertised, sold or attempted to sell its
207 services in such a manner as to misrepresent its services or capacity for
208 service or has engaged in deceptive, misleading or unfair practices
209 with respect to advertising or sales;

210 (4) The organization is not fulfilling its obligations as a discount

211 health plan organization; or

212 (5) The continued operation of the discount health plan organization
213 would be hazardous to its members.

214 (o) If the commissioner has reasonable cause to believe that grounds
215 for the suspension, nonrenewal or revocation of a license exist, the
216 commissioner shall notify the discount health plan organization in
217 writing specifically stating the grounds for suspension, nonrenewal or
218 revocation.

219 (p) When the license of a discount health plan organization is
220 surrendered, nonrenewed or revoked, the organization shall,
221 immediately following the effective date of the order, wind up and
222 settle the affairs transacted under the license. The organization may
223 not engage in any further advertising, solicitation, collection of fees or
224 renewal of contracts.

225 (q) The commissioner shall, in any order suspending the authority
226 of a discount health plan organization to enroll new members, specify
227 the period during which the suspension is to be in effect and the
228 conditions, if any, which must be met by the discount health plan
229 organization prior to reinstatement of its license to enroll new
230 members. The commissioner may rescind or modify the order of
231 suspension prior to the expiration of the suspension period.

232 (r) The commissioner may not reinstate a license: (1) Unless
233 reinstatement is requested by the discount health plan organization,
234 and (2) if the commissioner finds that the circumstances which led to
235 the suspension still exist or are likely to recur.

236 (s) Each discount health plan organization shall provide the
237 commissioner at least thirty days advance written notice of any change
238 in the discount health plan organization's name, address, principal
239 business address or mailing address.

240 (t) Each discount health plan organization shall maintain an up-to-

241 date list of the names and addresses of the providers with which it has
242 contracted on an Internet website, the address of which shall be
243 prominently displayed on all its advertisements, marketing materials,
244 brochures and discount cards. The list shall include providers with
245 whom the discount health plan organization has contracted directly as
246 well as providers who will provide services to the organization's
247 members as part of a provider network with which the discount health
248 plan organization has contracted.

249 (u) When a discount health plan organization or other person sells a
250 discount health plan with any other product, the fees for each
251 individual product shall be provided, in writing, to the member and
252 itemized.

253 (v) The commissioner may adopt regulations, in accordance with
254 chapter 54 of the general statutes, to implement the provisions of this
255 section.

256 (w) Except as provided in subsection (k) of this section, any person
257 who violates any provision of this section shall be fined not more than
258 two thousand dollars.

259 Sec. 3. Subsection (a) of section 38a-11 of the general statutes is
260 repealed and the following is substituted in lieu thereof (*Effective July*
261 *1, 2005*):

262 (a) The commissioner shall demand and receive the following fees:
263 (1) For the annual fee for each license issued to a domestic insurance
264 company, one hundred dollars; (2) for receiving and filing annual
265 reports of domestic insurance companies, twenty-five dollars; (3) for
266 filing all documents prerequisite to the issuance of a license to an
267 insurance company, one hundred seventy-five dollars, except that the
268 fee for such filings by any health care center, as defined in section 38a-
269 175, shall be one thousand one hundred dollars; (4) for filing any
270 additional paper required by law, fifteen dollars; (5) for each certificate
271 of valuation, organization, reciprocity or compliance, twenty dollars;
272 (6) for each certified copy of a license to a company, twenty dollars; (7)

273 for each certified copy of a report or certificate of condition of a
274 company to be filed in any other state, twenty dollars; (8) for
275 amending a certificate of authority, one hundred dollars; (9) for each
276 license issued to a rating organization, one hundred dollars. In
277 addition, insurance companies shall pay any fees imposed under
278 section 12-211; (10) a filing fee of twenty-five dollars for each initial
279 application for a license made pursuant to section 38a-769; (11) with
280 respect to insurance agents' appointments: (A) A filing fee of twenty-
281 five dollars for each request for any agent appointment; (B) a fee of
282 forty dollars for each appointment issued to an agent of a domestic
283 insurance company or for each appointment continued; and (C) a fee
284 of twenty dollars for each appointment issued to an agent of any other
285 insurance company or for each appointment continued, except that no
286 fee shall be payable for an appointment issued to an agent of an
287 insurance company domiciled in a state or foreign country which does
288 not require any fee for an appointment issued to an agent of a
289 Connecticut insurance company; (12) with respect to insurance
290 producers: (A) An examination fee of seven dollars for each
291 examination taken, except when a testing service is used, the testing
292 service shall pay a fee of seven dollars to the commissioner for each
293 examination taken by an applicant; (B) a fee of forty dollars for each
294 license issued; and (C) a fee of forty dollars for each license renewed;
295 (13) with respect to public adjusters: (A) An examination fee of seven
296 dollars for each examination taken, except when a testing service is
297 used, the testing service shall pay a fee of seven dollars to the
298 commissioner for each examination taken by an applicant; and (B) a fee
299 of one hundred twenty-five dollars for each license issued or renewed;
300 (14) with respect to casualty adjusters: (A) An examination fee of ten
301 dollars for each examination taken, except when a testing service is
302 used, the testing service shall pay a fee of ten dollars to the
303 commissioner for each examination taken by an applicant; (B) a fee of
304 forty dollars for each license issued or renewed; and (C) the expense of
305 any examination administered outside the state shall be the
306 responsibility of the entity making the request and such entity shall
307 pay to the commissioner one hundred dollars for such examination

308 and the actual traveling expenses of the examination administrator to
309 administer such examination; (15) with respect to motor vehicle
310 physical damage appraisers: (A) An examination fee of forty dollars
311 for each examination taken, except when a testing service is used, the
312 testing service shall pay a fee of forty dollars to the commissioner for
313 each examination taken by an applicant; (B) a fee of forty dollars for
314 each license issued or renewed; and (C) the expense of any
315 examination administered outside the state shall be the responsibility
316 of the entity making the request and such entity shall pay to the
317 commissioner one hundred dollars for such examination and the
318 actual traveling expenses of the examination administrator to
319 administer such examination; (16) with respect to certified insurance
320 consultants: (A) An examination fee of thirteen dollars for each
321 examination taken, except when a testing service is used, the testing
322 service shall pay a fee of thirteen dollars to the commissioner for each
323 examination taken by an applicant; (B) a fee of two hundred dollars for
324 each license issued; and (C) a fee of one hundred twenty-five dollars
325 for each license renewed; (17) with respect to surplus lines brokers: (A)
326 An examination fee of ten dollars for each examination taken, except
327 when a testing service is used, the testing service shall pay a fee of ten
328 dollars to the commissioner for each examination taken by an
329 applicant; and (B) a fee of five hundred dollars for each license issued
330 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
331 for each license issued or renewed; (19) a fee of thirteen dollars for
332 each license certificate requested, whether or not a license has been
333 issued; (20) with respect to domestic and foreign benefit societies shall
334 pay: (A) For service of process, twenty-five dollars for each person or
335 insurer to be served; (B) for filing a certified copy of its charter or
336 articles of association, five dollars; (C) for filing the annual report, ten
337 dollars; and (D) for filing any additional paper required by law, three
338 dollars; (21) with respect to foreign benefit societies: (A) For each
339 certificate of organization or compliance, four dollars; (B) for each
340 certified copy of permit, two dollars; and (C) for each copy of a report
341 or certificate of condition of a society to be filed in any other state, four
342 dollars; (22) with respect to reinsurance intermediaries: A fee of five

343 hundred dollars for each license issued or renewed; (23) with respect
 344 to viatical settlement providers: (A) A filing fee of thirteen dollars for
 345 each initial application for a license made pursuant to section 38a-465a;
 346 and (B) a fee of twenty dollars for each license issued or renewed; (24)
 347 with respect to viatical settlement brokers: (A) A filing fee of thirteen
 348 dollars for each initial application for a license made pursuant to
 349 section 38a-465a; and (B) a fee of twenty dollars for each license issued
 350 or renewed; (25) with respect to viatical settlement investment agents:
 351 (A) A filing fee of thirteen dollars for each initial application for a
 352 license made pursuant to section 38a-465a; and (B) a fee of twenty
 353 dollars for each license issued or renewed; (26) with respect to
 354 preferred provider networks, a fee of two thousand five hundred
 355 dollars for each license issued or renewed; (27) with respect to rental
 356 companies, as defined in section 38a-799, a fee of forty dollars for each
 357 permit issued or renewed; (28) with respect to discount health plan
 358 organizations licensed under section 2 of this act, a fee of five thousand
 359 dollars for each license issued or renewed; and [(28)] (29) with respect
 360 to each duplicate license issued a fee of twenty-five dollars for each
 361 license issued.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2005</i>	New section
Sec. 2	<i>July 1, 2005</i>	New section
Sec. 3	<i>July 1, 2005</i>	38a-11(a)

INS *Joint Favorable Subst.*